

Trade Regulations

CHAPTER 325

MANUFACTURES AND SALES

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325.01 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the words, terms, and phrases defined in subdivisions 2 to 7, for the purposes of sections 325.02 to 325.07, shall be given the meanings subjoined to them; the words, terms, and phrases defined in subdivisions 8 to 12, for the purposes of sections 325.08 to 325.13, shall be given the meanings subjoined to them; the words, terms, and phrases defined in subdivisions 13 and 14, for the purposes of sections 325.15 to 325.24, shall be given the meanings subjoined to them; the words, terms, and phrases defined in subdivisions 15 to 19, for the purposes of sections 325.25 to 325.33, shall be given the meanings subjoined to them; and the words, terms, and phrases defined in subdivisions 20 to 22, for the purposes of sections 325.34 to 325.37, shall be given the meanings subjoined to them.

Subd. 2. **Retailer.** The term "retailer" means any person, partnership, firm, corporation, or association, foreign or domestic, selling any commodity, article, goods, wares, or merchandise to the consumer and not for the purpose of re-sale in any form.

Subd. 3. **Wholesaler.** The term "wholesaler" means any person, firm, or corporation, partnership, association, business trust, or any unincorporated organiza-

tion, selling or supplying any commodity, article, goods, wares, or merchandise to retailers, industrial buyers, restaurants, institutions, or the selling on the part of one wholesaler to another wholesaler.

Subd. 4. Manufacturers or producers. Creameries, canneries, and other processors of agricultural products are defined to be manufacturers or producers and are not included within the meaning of the term "wholesaler."

Subd. 5. Cost. The term "cost," as applied to the wholesale or retail vendor, means:

(1) The actual current delivered invoice or replacement cost, whichever is lower, without deducting customary cash discounts, plus any excise or sales taxes imposed on such commodity, goods, wares or merchandise subsequent to the purchase thereof and prior to the resale thereof, plus the cost of doing business at that location by the vendor;

(2) Where a manufacturer publishes a list price and discounts, in determining such "cost" the manufacturer's published list price then currently in effect, less the published trade discount but without deducting the customary cash discount, plus any excise or sales taxes imposed on such commodity, goods, wares or merchandise subsequent to the purchase thereof and prior to the resale thereof, plus the cost of doing business by the vendor shall be prima facie evidence of "cost."

Subd. 6. Customary cash discounts. The term "customary cash discounts" means any allowance, not exceeding two per cent, whether a part of a larger discount or not, made to the wholesale or retail vendor, where the wholesale or retail vendor pays for merchandise within a limited or specified time.

Subd. 7. Cost of doing business or overhead expense. The "cost of doing business" or "overhead expense" is defined as all current costs of doing business incurred in the conduct of such business and must include, without limitation, the following items of expense: Labor, including salaries and bonuses of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising, and other fixed and incidental expenses.

The "cost of doing business" including, without limitation, these items of expenses incurred in the conduct of such business during the calendar year or the 12 months immediately preceding any alleged violation of sections 325.02 to 325.07; or, in the event any retailer or wholesaler shall have been engaged in business within the state for a shorter period of time, then such cost for such period of time immediately preceding any alleged violation thereof shall be prima facie evidence of "cost."

Subd. 8. Commodity. "Commodity" means any subject of commerce.

Subd. 9. Producer. "Producer" means any grower, baker, maker, manufacturer, bottler, packer, converter, processor, or publisher.

Subd. 10. Wholesaler. "Wholesaler" means any person selling a commodity other than a producer or retailer.

Subd. 11. Retailer. "Retailer" means any person selling a commodity to consumers for use.

Subd. 12. Person. "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a business trust, or an unincorporated organization.

Subd. 13. Person. "Person" means any individual, firm, corporation, partnership, association, trustee, receiver, or assignee for the benefit of creditors.

Subd. 14. Sell, sold, buy, and purchase. "Sell," "sold," "buy," and "purchase" include exchange, barter, gift, and offer of contract to sell or buy.

Subd. 15. Bedding. "Bedding" means any mattress, upholstered spring, comforter, pad, cushion, or pillow designed and made for use in sleeping or reclining purposes.

Subd. 16. Person. "Person" includes individuals, corporations, partnerships, joint stock companies, or other business associations who are manufacturers or dealers in bedding.

Subd. 17. New. "New" means any material or article that has not previously been used in the manufacture of bedding articles, or for any other purpose.

Subd. 18. Second-hand. The term "second-hand" means any material or article that has been previously used in the manufacture of bedding or for any other purpose.

Subd. 19. Shoddy. "Shoddy" means any material that has been spun into yarn, knit or woven into fabric and subsequently cut up, broken up, or ground up.

Subd. 20. **Cotton duck or canvas.** "Cotton duck" or "canvas" includes all cotton duck or canvas, whether single filling, double filling, army roll, or wide duck.

Subd. 21. **Yard.** The equivalent of 36 inches in length by 29 inches in width, or seven and one-fourth square feet, of cotton duck or canvas shall constitute a yard.

Subd. 22. **Ounce.** An "ounce" shall be one-sixteenth of a pound avoirdupois.

Subd. 23. **Trade discount.** The term "trade discount" means all discounts made to the wholesale or retail vendee other than the customary cash discount.

Subd. 24. **Sub-jobber.** The term "sub-jobber" means any person, partnership, firm, corporation or association other than a wholesaler or retailer, who or which buys any commodity, article, goods, wares, or merchandise from a wholesaler and sells such merchandise directly to retailers, thereby performing the selling and delivering functions of a wholesaler.

Subd. 25. **Vending machine operator.** The term "vending machines operator" means any person, partnership, firm, corporation or association who or which owns, services and supplies ten or more merchandise vending machines placed in various locations for dispensing such merchandise to consumers.

[1913 c 167 s 1, 2; 1929 c 358 s 1; 1937 c 116 s 2, 3; 1937 c 117 s 1; 1937 c 412 s 13; 1937 c 456 s 1; 1939 c 403 s 2; 1941 c 326 s 2; 1955 c 339 s 1-4] (3966, 3967, 3976-1, 3976-42, 3976-51, 3976-83)

325.02 APPLICATION. Section 325.03 shall apply only to the manufacture, production, or distribution of any commodity, article, goods, wares, or merchandise in general use or consumption. Sections 325.04 to 325.06 shall apply only to the selling, offering, or advertising for sale, giving away or offering or advertising the intent to give away of any commodity, article, goods, wares, or merchandise, in wholesale or retail trade.

[1937 c. 116 pt. 1 s. 1; 1937 c. 116 pt. 2 s. 1] (3976-37, 3976-40)

325.03 DISCRIMINATION UNLAWFUL. Any person, partnership, firm, or corporation, foreign or domestic, doing business in the state and engaged in the production, manufacture, or distribution of any printed or mimeograph matter, commodity, article, goods, wares, or merchandise in general use or consumption, who for the purpose or with the effect of injuring a competitor or destroying competition, shall discriminate between different sections, communities, or cities of this state by selling or furnishing such commodity, article, goods, wares or merchandise at a lower price, or rate in one section, community, or city, or any portion thereof, than such person, firm, or corporation, foreign or domestic, charges for such commodity, article, goods, wares, or merchandise in another section, community, or city, or any portion thereof, after making allowance for difference, if any, in the grade, quality, or quantity after equalizing the distance from the point of production, manufacture, or distribution and freight rates therefrom, shall be guilty of unfair discrimination; provided, that sections 325.01 to 325.07 shall not prevent any person, firm, or corporation from, in good faith, meeting local competition within any one section, community, village, or city. The inhibition hereof against locality discrimination shall embrace any scheme of special rebates, collateral contracts, or any device of any nature whereby such discrimination is, in substance or fact, effected in violation of the spirit and intent of sections 325.01 to 325.07.

[1937 c 116 pt 1 s 2; 1957 c 822 s 1] (3976-38)

325.04 SELLING BELOW COST FORBIDDEN. Any retailer, wholesaler, sub-jobber or vending machines operator engaged in business within this state, who sells, offers for sale or advertises for sale, any commodity, article, goods, wares, or merchandise at less than the cost thereof to such vendor, or gives, offers to give or advertises the intent to give away any commodity, article, goods, wares, or merchandise for the purpose or with the effect of injuring a competitor or destroying competition, shall be guilty of unfair discrimination; and, upon conviction, subject to the penalty therefor provided in section 325.48, subdivision 2.

Any retailer, wholesaler, sub-jobber or vending machines operator who sells goods in any part of this state at prices lower than those exacted by the person elsewhere in the state for like qualities and grades and where the effect of such lower prices may be substantially to lessen competition or tend to create a monopoly in any line of business, or to injure, destroy, or prevent competition with the person selling at such lower prices, shall be guilty of unfair competition and subject to the penalties of section 325.48, subdivision 2; provided, that nothing shall prevent differentials in prices in different localities which make only due allowances for

differences in "cost of doing business" or "overhead expense" and in costs of delivery for such goods to different localities; nor differences in prices in an endeavor made in good faith to meet the legal prices of a competitor selling the same commodity, articles, goods, wares or merchandise in the same locality or trade area.

The inhibition against sales below cost or locality discrimination shall embrace any scheme of special rebates, collateral contracts, or any device of any nature whereby such discrimination is, in substance or fact, effected in violation of the spirit and intent of sections 325.01 to 325.07.

[1937 c 116 pt 2 s 2; 1939 c 403 s 1; 1941 c 326 s 1; 1957 c 822 s 2] (3976-41)

325.05 BANKRUPT SALES NOT TO BE CONSIDERED IN FIXING COSTS.

In establishing the cost of a given article, goods, wares, or merchandise to the vendor, the invoice cost of the article, goods, wares, or merchandise purchased at a forced, bankrupt, close-out, or other sale outside of the ordinary channels of trade may not be used as a basis for justifying a price lower than one based upon the replacement cost as of date of the sale of the article, goods, wares, or merchandise replaced through the ordinary channels of trade, unless the article, goods, wares, or merchandise is kept separate from goods purchased in the ordinary channels of trade and unless the article, goods, wares, or merchandise is advertised and sold as merchandise purchased at a forced, bankrupt, or close-out sale, or by means other than through the ordinary channels of trade, and the advertising shall state the conditions under which the goods were so purchased and the quantity of such merchandise to be sold or offered for sale.

[1937 c. 116 pt. 2 s. 4] (3976-43)

325.06 INAPPLICABLE SALES. The provisions of section 325.01, subdivisions 2 to 6, and sections 325.04 and 325.05 shall not apply to any sale made:

(1) In closing out in good faith the owner's stock, or any part thereof, for the purpose of discontinuing his trade in any such stock or commodity, and in case of the sale of seasonal goods or merchandise where style is the paramount feature or to the bona fide sale of perishable goods to prevent loss to the vendor by spoilage or depreciation, provided notice is given to the public thereof;

(2) When the goods are damaged or deteriorated in quality, and notice is given to the public thereof;

(3) By an officer acting under the orders of any court;

(4) In an endeavor made in good faith to meet the legal prices of a competitor selling the same commodity, articles, goods, wares, or merchandise in the same locality or trade area.

The price of a retail competitor which is less than eight percent above the manufacturer's published list price less his published trade discounts where the manufacturer publishes a list price, or in the absence of such a list price less than eight percent above the actual current delivered invoice or replacement cost without deducting customary cash discounts plus the amount of any excise or sales tax shall be prima facie evidence that it is not a legal price, within the meaning of this section.

The price of a wholesale or sub-jobbing competitor to a retailer, which is less than two percent above the manufacturer's published list price less his published trade discounts where the manufacturer publishes a list price, or in the absence of such a list price less than two percent above the actual current delivered invoice or replacement cost without deducting customary cash discounts plus the amount of any excise or sales tax shall be prima facie evidence that it is not a legal price, within the meaning of this section.

Any retailer, wholesaler, sub-jobber or vending machines operator may request the commissioner of the department of business development to ascertain and disclose to him, the current manufacturer's published list price less published trade discounts on any commodity, article, goods, wares, or merchandise, and it shall then be the duty of the commissioner of the department of business development, within 48 hours of such request, to ascertain and disclose to the person making such request, the current manufacturer's published list price less published trade discounts.

Failure to make such request by any person before reducing his price on any commodity, article, goods, wares, or merchandise below his cost shall be prima facie evidence of not acting in good faith within the meaning of this paragraph.

[1937 c 116 pt 2 s 6; 1939 c 403 s 3; 1941 c 326 s 3; 1957 c 822 s 3] (3976-45)

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325.07 REMEDIES CUMULATIVE. The remedies herein provided shall be cumulative to all other remedies provided by law.

[1937 c. 116 pt. 3 s. 3; 1939 c. 403 s. 6] (3976-48)

NOTE: See sections 325.48, 325.49, 325.52 and 362.14.

325.08-325.13 [Invalid, Remington Arms Co. v G.E.M. 257 M. 562, 102 NW(2) 528]

325.14 [Unnecessary]

325.141 UNLAWFUL TRADE PRACTICES. The Legislature of the State of Minnesota hereby finds: that the trade practices defined and prohibited by Laws 1943, Chapter 144, are detrimental to labor, destructive to employment, and injurious to the best interests of workingmen; that they mislead the consumer into believing that he is buying merchandise at prices substantially below regular retail prices, when in fact he is not; that they mislead the consumer as to the quality, ingredients and origin of merchandise purchased by him; that they deprive the consumer of various customer services offered by regularly established and bona fide retail outlets without compensating advantage to the consumer; and that they constitute unfair and fraudulent competition and unsound and uneconomic methods of distribution. The Legislature, acting in the exercise of the police power of the state, declares that the public policy of the state requires, and that the general welfare of the state will be benefited by, the suppression of the trade practices hereinafter defined.

[1943 c. 144 s. 1]

325.142 DEFINITIONS. When used in sections 325.141 to 325.148:

(a) The term "person" includes any individual, firm, partnership, corporation or other organization, whether organized for profit or not.

(b) The term "employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee.

(c) "Sale" or "sell" includes any sale, offer, or advertisement thereof or contract for the same.

(d) "Sale of merchandise at retail" includes any sale except (1) A sale for the purpose of re-sale or (2) a sale of a substantial quantity of merchandise for business use only.

[1943 c. 144 s. 2]

325.143 CERTAIN UNLAWFUL TRADE PRACTICES. It shall be an unlawful trade practice for any seller or transferor of any goods, wares, or merchandise to advertise, claim or imply that any sale or transfer of goods, wares, or merchandise is a sale or transfer at wholesale, unless such sale or transfer is made to a transferee for re-sale or is a sale of a substantial quantity of merchandise for business use only.

[1943 c. 144 s. 3]

325.144 RETAILERS NOT TO MISREPRESENT NATURE OF BUSINESS.

(1) No person engaged in the sale of merchandise at retail shall, in connection with such business, misrepresent the true nature of such business, either by use of the words manufacturer, wholesaler, broker, or any derivative thereof or synonym therefor, or otherwise.

(2) No person shall, in connection with the sale of merchandise at retail misrepresent, directly or indirectly, that the price at which such merchandise is sold is an approximately wholesale price, or is less than the usual retail price, either by the use of any such expression, or of any expression having a similar meaning, or otherwise misrepresent the true nature of such sale.

(3) No person shall, in connection with the sale of merchandise at retail, or in, or in connection with the use of, samples, catalogs, or other forms of advertising listing merchandise for sale at retail, display price tags or price quotations in any form showing prices which are fictitiously in excess of the actual prices at which such merchandise is regularly and customarily sold at retail by such person or by the person issuing such samples, catalogs, or other forms of advertising.

[1943 c. 144 s. 4]

325.145 QUALITY, MISREPRESENTED. No person shall, in connection with the sale of merchandise, knowingly misrepresent, directly or indirectly, the true quality, ingredients or origin of such merchandise.

[1943 c. 144 s. 5]

325.146 EMPLOYER NOT TO DISPOSE OF OTHER THAN OWN PRODUCTS. No employer shall, directly or indirectly, by itself or through a subsidiary agency

owned or controlled in whole or in part by such employer, sell, cause to be sold, or have in his possession or under his control for sale to his employes or to any other person, any merchandise not handled by such employer in the regular course of his business, nor shall any employer permit his name, his credit, or his premises to be used in connection with the sale or offer for sale of any such merchandise. This section shall not apply to purchases by an employer for the purpose of re-sale to his employes of such specialized equipment and paraphernalia as may be required for employes' safety and health, candy, chewing gum, tobacco, or meals consumed on the premises of such employer. The provisions of sections 325.141 to 325.148 shall not apply to any cooperative associations, duly established under the laws of the state of Minnesota, with respect to any merchandising transactions, which such cooperatives are authorized by their charters to conduct with their members.

[1943 c. 144 s. 6]

325.147 VIOLATIONS; RESTRAINING ORDERS. Any person violating the provisions of sections 325.141 to 325.148 shall be deemed guilty of a misdemeanor. Each act prohibited by sections 325.141 to 325.148 shall constitute a separate violation and offense thereunder.

In addition to the penalties provided in sections 325.141 to 325.148 the courts of this state are hereby vested with jurisdiction to prevent and restrain violation of sections 325.141 to 325.148. Any person damaged or who is threatened with loss, damage, or injury by reason of a violation of sections 325.141 to 325.148 shall be entitled to sue for and have injunctive relief in any court of competent jurisdiction against any damage or threatened loss or injury by reason of a violation of sections 325.141 to 325.148 and for the amount of the actual damages to him, if any. In order to obtain such injunctive relief, it shall not be necessary to allege or prove that an adequate remedy at law does not exist.

[1943 c. 144 ss. 7, 8]

325.148 APPLICATION. Nothing in sections 325.141 to 325.148 shall be deemed to prohibit the sale by an employer to his employees of his own products or property at any price.

[1943 c. 144 s. 9]

325.149 DELIVERY TICKETS TO ACCOMPANY EACH FUEL DELIVERY. No person, firm, or corporation shall deliver any domestic heating fuel without such delivery being accompanied by a delivery ticket, on which shall be distinctly expressed in pounds, the gross weight of the load, the tare of the delivery vehicle, the net quantity or quantities of fuel contained in the cart, wagon, vehicle or compartment thereof, bag, sack or container used in such deliveries when sold by weight; or the number of gallons or cubic feet that is being delivered when sold by measure, with the name of the purchaser thereof and the name of the dealer from whom purchased. The delivery ticket shall also clearly state the name, type, kind and grade of fuel being delivered. When the buyer carries away the purchase, a delivery ticket showing the actual amount delivered to the purchaser must be given to the purchaser at the time the sale is made.

Sales of wood for fuel direct from producer to consumer shall be exempt from the provisions of this section. This section shall not apply to deliveries in quantities of ten gallons or less.

Whoever violates any provision of this section is guilty of a misdemeanor.

[1943 c 328]

325.15 MOTOR VEHICLES, MANUFACTURER FORBIDDEN TO FINANCE SALES. It shall be unlawful for any person who is engaged, directly or indirectly, in the manufacture or wholesale distribution of motor vehicles to sell, or enter into a contract to sell motor vehicles to any person who is engaged, or intends to engage, in the business of selling such motor vehicles at retail in this state, on the condition, or with the agreement or understanding, expressed or implied, that such person so engaged in selling motor vehicles at retail shall in any manner finance the purchase or sale of any one or number of motor vehicles only with or through a designated person or class of persons, or shall sell and assign the conditional sales contracts, chattel mortgages, or leases arising from the sale of motor vehicles, or any one or number thereof, only to a designated person or class of persons, when the effect of the condition, agreement, or understanding so entered into may be to lessen or eliminate competition, or create or tend to create a monopoly in the person or class of persons who is designated, by virtue of such

condition, agreement, or understanding, to finance the purchase or sale of motor vehicles or to purchase such conditional sales contracts, chattel mortgages, or leases, and any such condition, agreement, or understanding is hereby declared to be void and against the public policy of this state.

[1937 c. 412 s. 1] (3976-71)

325.16 CERTAIN THREATS, STATEMENTS, OR PROMISES TO BE PRIMA FACIE EVIDENCE. Any threat, statement, or promise, expressed or implied, made to any person engaged in the business of selling motor vehicles at retail in this state by any person engaged, directly or indirectly, in the manufacture or distribution of motor vehicles, that such person will discontinue or cease to sell, or refuse to enter into a contract to sell, or will terminate a contract to sell motor vehicles, to such person who is so engaged in the business of selling motor vehicles at retail, unless such person finances the purchase or sale of any one or number of motor vehicles only with or through a designated person or class of persons, or sells and assigns the conditional sales contracts, chattel mortgages, or leases arising from his retail sales of motor vehicles or any one or number thereof only to a designated person or class of persons, shall be prima facie evidence of the fact that such person so engaged in the manufacture or distribution of motor vehicles has sold or intends to sell the same on the condition or with the agreement or understanding prohibited in section 325.15.

[1937 c. 412 s. 2] (3976-72)

325.17 WHEN PRESUMPTION MAY BE PRIMA FACIE EVIDENCE. Any threat, statement, or promise, expressed or implied, made to any person engaged in the business of selling motor vehicles at retail in this state by any person, or any agent of any such person, who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages, or leases on motor vehicles in this state, or any person, or any agent of any such person, who is engaged in the business of financing the purchase or sale of motor vehicles, or of buying conditional sales contracts, chattel mortgages, or leases on motor vehicles in this state and is affiliated with or controlled by any person engaged, directly or indirectly, in the manufacture or distribution of motor vehicles, that such person so engaged in such manufacture or distribution shall terminate his contract with or cease to sell motor vehicles to such person engaged in the sale of motor vehicles at retail in this state unless such person finances the purchase or sale of any one or number of motor vehicles only with or through a designated person or class of persons or sells and assigns the conditional sales contracts, chattel mortgages, or leases arising from his retail sale of motor vehicles, or any one or any number thereof, only to such person so engaged in financing the purchase or sale of motor vehicles or in buying conditional sales contracts, chattel mortgages, or leases on motor vehicles, shall be presumed to be made at the direction of and with the authority of such person so engaged in such manufacture or distribution of motor vehicles, and shall be prima facie evidence of the fact that such person so engaged in the manufacture or distribution of motor vehicles has sold, or intends to sell, the same on the condition or with the agreement or understanding prohibited in section 325.15.

[1937 c. 412 s. 3] (3976-73)

325.18 UNLAWFUL FOR MANUFACTURER TO GIVE SUBSIDIES. It shall be unlawful for any person who is engaged, directly or indirectly, in the manufacture or wholesale distribution of motor vehicles to pay or give or to contract to pay or give any thing of value or subsidy to any person, other than an automobile dealer or automobile distributor, who is engaged in the business of financing the purchase or sale of motor vehicles, or of buying conditional sales contracts, chattel mortgages, or leases on motor vehicles sold at retail within the state, or to discriminate in favor of or against any person, other than an automobile dealer or automobile distributor, engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages, or leases on motor vehicles sold at retail within the state, if the effect of such payment or contract to pay or give any thing of value or subsidy or discrimination may be to lessen or eliminate competition or to create or tend to create a monopoly in the person or class of persons who receives such thing of value or subsidy, or who is benefited by such discrimination.

[1937 c. 412 s. 4] (3976-74)

325.19 UNLAWFUL TO RECEIVE SUBSIDIES. It shall be unlawful for any

person, other than an automobile dealer or automobile distributor, who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages, or leases on motor vehicles sold at retail within this state, to accept or receive or contract or agree to accept or receive directly or indirectly any thing of value or subsidy or the benefit resulting from any discrimination, as set forth in section 325.18, from any person engaged, directly or indirectly, in the manufacture or wholesale distribution of motor vehicles if the effect of the acceptance or receipt of any such thing of value or subsidy or benefit may be to lessen or eliminate competition or to create or tend to create a monopoly in the person or class of persons who receives such thing of value or subsidy, or who is thus benefited by such discrimination.

[1937 c. 412 s. 5] (3976-75)

325.20 PERSONS RECEIVING SUBSIDIES FORBIDDEN TO ENGAGE IN FINANCE OF SALES. It shall be unlawful for any person, other than an automobile dealer or automobile distributor, who hereafter so accepts or receives, directly or indirectly, any thing of value or subsidy or the benefit resulting from any discrimination, as set forth in section 325.19, or hereafter so contracts, directly or indirectly, to receive any such thing of value or subsidy or benefit, to thereafter finance, or attempt to finance, the purchase or sale of any motor vehicle, or buy or attempt to buy any conditional sales contracts, chattel mortgages, or leases on motor vehicles sold at retail in this state.

[1937 c. 412 s. 6] (3976-76)

325.21 PROCEEDINGS INSTITUTED. For a violation of any of the provisions of sections 325.15 to 325.23 by any corporation or association mentioned therein, it shall be the duty of the attorney general, or the county attorney of the proper county, to institute proper suits or quo warranto proceedings in any court of competent jurisdiction for the forfeiture of its charter rights, franchises, or privileges and powers exercised by such corporation or association, and for the dissolution of the same under the general statutes of the state.

[1937 c. 412 s. 7] (3976-77)

325.22 FOREIGN CORPORATIONS MAY BE PROHIBITED FROM DOING BUSINESS IN THE STATE. Every foreign corporation, as well as every foreign association, exercising any of the powers, franchises, or functions of a corporation in this state, violating any of the provisions of sections 325.15 to 325.23, is hereby denied the right to do and prohibited from doing any business in this state. It shall be the duty of the attorney general to enforce this provision by bringing proper proceedings by injunction or otherwise. The secretary of state shall be authorized to revoke the license of any such corporation or association heretofore authorized by him to do business in this state.

[1937 c. 412 s. 8] (3976-78)

325.23 PROVISIONS CUMULATIVE. The provisions of sections 325.15 to 325.23 shall be held cumulative of each other and of all other laws in any way affecting them now in force in this state.

[1937 c. 412 s. 11] (3976-81)

NOTE: See sections 325.48, 325.50, 325.51 and 362.14.

325.24 AUTOMOBILE DEALERS' ANTI-COERCION ACT. Sections 325.15 to 325.24 shall be known and cited as the automobile dealers' anti-coercion act.

[1937 c. 412 s. 14] (3976-84)

325.25 USE OF SECOND-HAND MATERIAL FORBIDDEN IN CERTAIN CASES. No person shall use, in the making or remaking of any article of bedding, any material that has been used in any private or public hospital, or any material of any kind that has been used by or about any person having an infectious or contagious disease, or has formed a part of any article of bedding which has so been used. This section shall not prevent the renovating of bedding used in any private or public hospital.

[1929 c. 358 s. 2] (3976-2)

325.26 SALE OF BEDDING. No person shall sell, offer for sale, consign for sale, or have in his possession with intent to sell, or consign for sale any bedding used in a private or public hospital or any article of bedding that has been used by or about any person having an infectious or contagious disease.

[1929 c. 358 s. 3] (3976-3)

325.27 MATERIAL MUST BE RENOVATED. No person shall remake or renovate any article of bedding unless all the material to be used in such remake

or renovated bedding shall first be thoroughly sterilized and disinfected by the methods set out herein, or by any other approved sterilization method:

(1) Dry heat of a temperature of not less than 160 degrees centigrade temperature for not less than one hour. (A thermometer for registering the temperature visible from the outside of the room shall be provided where dry heat is used);

(2) Live steam, with subsequent drying of the material over steam coils with a pressure of not less than 20 pounds of steam for 20 minutes. (A gauge for registering steam pressure visible from the outside of the room shall be provided where steam under pressure is used and valved outlets shall be provided near the bottom and also the top of the room in cases where streaming steam is used);

(3) Formaldehyde and sulphur concurrently in a moist atmosphere for a period of not less than ten hours. Formaldehyde gas shall be generated from the use of one pint of formaldehyde solution, 37 percent to each 1,000 cubic feet of air space, or through the use of any of the high class commercial fumigators which generate an equivalent quantity of gas. Sulphur shall be from the burning of three pounds of sulphur for each 1,000 cubic feet of air space. The moist atmosphere shall be produced by thorough sprinkling of the floor of the room with warm water just prior to the process of disinfection.

The room shall be provided with a separate air inlet and also an exhaust connection, and shall be equipped with tight dampers or closure gates which can be operated from the outside of the room. Rooms for disinfection of bedding materials shall be made gas or steam tight. Shelving for loose bedding materials shall be of lattice or other open construction.

Solid shelves of a type to prevent passage of gas through the materials shall not be permitted.

[1929 c. 358 s. 4] (3976-4)

325.28 DEVICES MUST BE APPROVED. All devices and equipment, before being used as a process for sterilization and disinfection, shall be approved by the industrial commission, upon written application of the person desiring to use the same and, when so approved, a numbered permit for such use shall be issued to the applicant by the industrial commission. Such permit shall expire one year from the date thereof. Such system of sterilization and disinfection shall be kept in good condition and repair. Every person to whom a permit has been issued shall keep such permit conspicuously posted under glass near such sterilization or disinfection chamber. Refusal to display such permit in accordance with sections 325.25 to 325.33 shall be sufficient reason to revoke the same. Nothing in sections 325.25 to 325.33 shall prevent any person engaged in the making or remaking, renovating, or sale of any article herein described which requires sterilizing and disinfecting under the provisions thereof from having such sterilizing and disinfecting performed by any person to whom a permit for such purposes has been issued, providing the number of the permit, with date of sterilization, shall be printed on the tag or label attached to the article, and a copy of such kept by the person doing such sterilization for reference.

[1929 c. 358 s. 5] (3976-5)

325.29 SUBJECT TO INSPECTION. Any place where bedding is made, remade, or renovated, or where materials for bedding are prepared, or any establishment where these articles are offered for sale, or are in possession of any person with intent to sell, deliver, lease, or to consign them to an establishment where sterilizing and disinfecting are performed, shall be subject to inspection by a duly appointed inspector for the industrial commission to ascertain whether the materials used or sold or the finished article enumerated conform to the requirements of sections 325.25 to 325.33. He shall have authority to open such bedding to examine the material used in the filling.

[1929 c. 358 s. 6] (3976-6)

325.30 SALES FORBIDDEN; EXCEPTIONS. No person shall sell, lease, offer to sell or lease, or deliver or consign for sale or lease, or have in his possession with intent to sell, lease, deliver, or consign for sale or lease, any bedding made, remade, or renovated in violation of sections 325.25 to 325.33 or any second-hand bedding unless since last used it has been thoroughly sterilized and disinfected by an approved method of sterilization.

[1929 c. 358 s. 7] (3976-7)

325.31 SHODDY MATERIAL TO BE LABELED. No person, by himself or his agents, servants, or employees, shall make or sell, or offer to sell, deliver, or con-

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sign for sale, or have in his possession with intent to sell, deliver, or consign for sale any bedding made of material that has theretofore been used as a container for or in contact with any animal or vegetable matter or any material defined as shoddy, unless the bedding shall be labeled as such, or any material that has theretofore been used unless the same shall have been cleaned and sterilized.

[1929 c. 358 s. 8] (3976-8)

325.32 BEDDING TO BE LABELED. No person shall make or remake, or sell, offer for sale, consign for sale, or have in his possession with intent to sell, offer for sale, or consign for sale any article of bedding unless the same is labeled as follows:

Upon each of such articles of bedding there shall be securely sewed upon the outside thereof a muslin or linen label not less than three by four and one-half inches in size, upon which shall be in plain print, in the English language, a description of the material used as filling of such article of bedding; and, if such material, or any portion thereof, shall not have been previously used, the words "manufactured of new material" shall appear upon the label, together with the name and address of the maker or vendor thereof. If any of the material used in the making or remaking of such article of bedding shall have been previously used, the words "manufactured of second-hand material" or "remade of second-hand material," as the case may be, shall appear upon the label, together with the name and address of the maker or vendor thereof, and also a description of the material used in the filling of such article of bedding. On any article of bedding, not remade, but which has been previously used, the words "second-hand materials used in filling not known" shall appear upon the label, together with the name and address of the vendor thereof.

The statement required under this section shall be in form as follows:

"OFFICIAL STATEMENT

Materials used in filling

Made by

Vendor

Address

This article is made in compliance with an act of the State of Minnesota approved the day of, 1929."

The statement of compliance required in the foregoing official statement shall not be construed to imply that it is prohibited to state also that the article of bedding is made in compliance with any act or acts of other states.

The words "manufactured of new material," or "manufactured of second-hand material," or any article of bedding not remade, "second-hand materials used in filling not known," together with the description of the material used as filling of an article of bedding, shall be in letters not less than one-eighth of an inch in height. The statement of filling shall conform to rules regulating the manufacture and sale of bedding as approved by the industrial commission. No term or description likely to mislead shall be used on any label required by this regulation in the description of the material used in the filling of any article of bedding. The label shall be attached to each mattress, pad, or upholstered spring by sewing all four edges of the label.

Any person who shall remove, deface, alter, or who shall cause to be removed, defaced, or altered, any label or tag upon any article of bedding so labeled or tagged under the provisions of sections 325.25 to 325.33 shall be guilty of a violation thereof.

[1929 c. 358 s. 9] (3976-9)

325.33 FEATHERS TO BE RENOVATED. Feathers used in making, remaking, or renovating new or second-hand bedding shall be thoroughly cured, sterilized, or disinfected.

[1929 c. 358 s. 10] (3976-10)

325.34 MANUFACTURE AND SALE OF COTTON DUCK OR CANVAS; STAMPS, BRANDS, AND MARKS. Any person, company, or corporation who shall manufacture for sale, or who may offer or expose for sale, any cotton duck or canvas or any article, other than clothing and wearing apparel, composed or made, in whole or in part, of cotton duck or canvas, shall distinctly and durably stamp, brand, or mark thereon the true and correct weight of such cotton duck or canvas, by ounces per yard, together with a description by name of any filler or other preparation placed in or on the cotton duck or canvas since its manufacture.

[1913 c. 167 s. 3] (3968)

325.35 CERTAIN SALES UNLAWFUL; MISSTATEMENTS FORBIDDEN. It shall be unlawful for any person or corporation, either individually or in any representative capacity, to carry for sale, sell, or endeavor to sell any cotton duck or canvas or any articles other than clothing and wearing apparel, composed or made, in whole or in part, of any cotton duck or canvas without having marked thereon the true and correct weight of the canvas or cotton duck, by ounces per yard, together with a description by name of any filler or other preparation placed in or on the cotton duck or canvas since its manufacture, or to misstate, misrepresent, or conceal the true weight of the canvas or cotton duck, by ounces per yard, or to misstate, misrepresent, or conceal the existence of any filler or other preparation placed in or on the cotton duck or canvas since its manufacture.

[1913 c. 167 s. 4] (3969)

325.36 CONCEALING OR MISSTATING SIZE UNLAWFUL. It shall be unlawful for any person or corporation, either individually or in representative capacity, selling, carrying for sale, or endeavoring to sell any awnings, paulins, wagon covers, tent, grain and hay covers, stable or tent tops, to misstate or misrepresent or conceal the true and correct size and dimensions thereof.

[1913 c. 167 s. 5] (3970)

325.37 UNLAWFUL TO DEFACE MARK. It shall be unlawful for any person to deface, mutilate, obscure, conceal, efface, cancel, or remove any mark provided for by sections 325.34 to 325.37, or cause or permit the same to be done with intent to mislead, deceive, or to violate any of the provisions of sections 325.34 to 325.37.

[1913 c. 167 s. 6] (3971)

325.38 [Repealed, 1961 c 561 s 17]

325.39 [Repealed, 1961 c 561 s 17]

325.40 [Repealed, 1961 c 561 s 17]

325.41 IMITATION INDIAN-MADE GOODS TO BE BRANDED. All goods, wares, and merchandise known as moccasins, bead work, birchbark baskets, deer-skin work, grass rugs, sweet grass baskets, and other goods which are manufactured or produced in imitation of genuine Minnesota Indian hand-made goods, wares, or merchandise shall be branded, labeled, or marked, as hereinafter provided, before being exposed for sale and shall not be exposed or sold without such brand, label, or mark thereon.

[1937 c. 196 s. 1] (3976-61)

325.42 BRAND. The brand, label, or mark required by section 325.41 shall be the words "imitation Indian-made" and shall be placed or attached outside of and on a conspicuous part of the finished article so as to be plainly visible to the purchasing public, and shall be the size and style known as great primer Roman capitals. Such brand or mark, if the article will permit, shall be placed upon it, but when such branding or marking is impossible a label shall be used and attached thereto.

[1937 c. 196 s. 2] (3976-62)

325.43 GOODS NOT TO BE SOLD WITHOUT BRAND. No person shall sell, offer for sale, or have in possession for the purpose of sale, imitation goods, wares, or merchandise described in section 325.41 without the brand, label, or mark required by sections 325.41 and 325.42 being placed thereon or attached thereto, or remove, conceal, or deface such brand, label, or mark.

[1937 c. 196 s. 3] (3976-63)

325.44 PRISON-MADE GOODS ARE SUBJECT TO LAWS OF STATE. All goods, wares, and merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners (except convicts or prisoners on parole or probation), or in any penal or reformatory institutions, transported into the state and remaining therein for use, consumption, sale, or storage, shall, upon arrival and delivery in the state, be subject to the operation and effect of the laws of the state, to the same extent and in the same manner as though such goods, wares, and merchandise had been manufactured, produced, or mined in the state, and shall not be exempt therefrom by reason of being introduced in the original package or otherwise.

[1935 c. 267 s. 1] (3976-21)

325.45 PRISON-MADE GOODS MUST BE MARKED. All goods, wares, and merchandise manufactured, produced, or mined, wholly or in part, by convicts or prisoners (except convicts or prisoners on parole or probation), or in any penal or reformatory institutions in this or any other state, shall be branded, labeled, or

marked, as herein provided, before being exposed for sale, and shall not be so exposed or sold without such brand, label, or mark thereon.

[1935 c. 268 s. 1] (3976-31)

325.46 "PRISON MADE" TO BE PLACED ON PRISON-MADE GOODS. The brand, label, or mark required by section 325.45 shall contain, at the head or top thereof, the words "prison made," followed by the name of the penal or reformatory institution in which it was manufactured, produced, or mined, in plain English lettering of the style known as great primer Roman capitals. Such brand or mark, if the article will permit, shall be placed upon it and when such branding or marking is impossible, a label shall be used and attached. Such brand, mark, or label shall be placed or attached outside of and on a conspicuous part of the finished article so as to be plainly visible to the purchasing public and also be placed outside of its box, crate, or covering.

[1935 c. 268 s. 2; 1939 c. 57] (3976-32)

325.47 SALE OF UNMARKED GOODS FORBIDDEN. No person shall sell, offer for sale, or have in possession for the purpose of sale, goods, wares, or merchandise described in section 325.45 without the brand, label, or mark required by section 325.45 being placed thereon or attached thereto, or remove, conceal, or deface such brand, label, or mark.

[1935 c. 268 s. 3] (3976-33)

325.48 VIOLATIONS; PENALTIES. Subdivision 1. **Gross misdemeanors.**

(1) Any person who shall violate any of the provisions of sections 325.15 to 325.23, or any person who is a party to any agreement or understanding, or to any contract prescribing any condition prohibited by sections 325.15 to 325.23, any employee, agent, or officer of any such person who shall participate, in any manner, in making, executing, enforcing, performing, or in urging, aiding, or abetting in the performance of any such contract, condition, agreement, or understanding and any person who shall pay or give or contract to pay or give any thing or service of value prohibited by sections 325.15 to 325.23, and any person who shall receive or accept or contract to receive or accept any thing or service of value prohibited by sections 325.15 to 325.23 shall be deemed guilty of a gross misdemeanor; and, upon conviction thereof, punished by a fine not exceeding \$500; or be imprisoned in a county jail for not exceeding six months, or by both such fine and imprisonment. Each day's violation of any such provision shall constitute a separate offense.

The words "person," "employee," "agent," or "officer," as used in this section, shall not be construed to mean or apply to any person who is engaged, or intends to engage, in the business of selling motor vehicles at retail in this state, nor to the employee, agent, or officer of any person who is engaged, or intends to engage, in the business of selling motor vehicles at retail in this state.

(2) Any person violating any of the provisions of sections 325.25 to 325.33 shall be guilty of a gross misdemeanor; and, upon conviction thereof, punished by a fine of not more than \$100 nor less than \$25 or by imprisonment for not more than 90 nor less than 30 days or by both such fine and imprisonment, for each offense.

Subd. 2. **Misdemeanors.** (1) Any person, firm, or corporation, whether as principal, agent, officer, or director, for himself, or itself, or for another person, firm, or corporation, wilfully violating the provisions of sections 325.03, 325.04, 325.05, and 325.52 shall be guilty of a misdemeanor.

Any person who, either as director, officer, or agent of any firm or corporation or as agent of any person violating the provisions of sections 325.03, 325.04, 325.05, and 325.52, knowingly assists or aids directly or indirectly in such violation shall be responsible therefor equally with the person, firm, or corporation for whom or which he acts.

(2) Any person, company, or corporation violating any of the provisions of sections 325.34 to 325.37 shall be deemed guilty of a misdemeanor; and, upon conviction thereof, for the first offense, punished by a fine of not less than \$25 nor more than \$50 and for each subsequent offense by a fine of not less than \$50 nor more than \$100.

(3) Any person who violates the provisions of sections 325.41 to 325.43 or any of the provisions of sections 325.45 to 325.47 shall be guilty of a misdemeanor.

[1913 c 167 s 7; 1929 c 300 s 4; 1929 c 358 s 11; 1935 c 268 s 4; 1937 c 116 part 3 s 1; 1937 c 196 s 4; 1937 c 412 s 9; 1939 c 403 s 4; 1941 c 326 s 4; 1961 c 561 s 10] (3972, 3976-11, 3976-17, 3976-34, 3976-46, 3976-79)

325.49 INJUNCTIVE RELIEF. In addition to the penalties provided in section 325.48, subdivision 2, clause (1), the courts of this state are hereby vested with jurisdiction to prevent and restrain violations of sections 325.02 to 325.07. Any person, partnership, corporation, or association damaged, or who is threatened with loss or injury, by reason of a violation of these sections shall be entitled to sue for and have injunctive relief in any court of competent jurisdiction against any damage or threatened loss or injury by reason of a violation thereof and for the amount of the actual damages to him, if any. In order to obtain such injunctive relief it shall not be necessary to allege or prove that an adequate remedy at law does not exist.

No person shall be excused from attending and testifying or from producing books, papers, contracts, agreements, and documents in any case or proceedings instituted or brought under the provisions of sections 325.02 to 325.07, 325.48, 325.49, and 325.52, or in obedience to a subpoena, in any such case or proceedings, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to criminate him or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, in any such case or proceedings, or in obedience to a subpoena, in any such case or proceedings.

[1937 c. 116 pt. 3 s. 2; 1939 c. 403 s. 5; 1941 c. 326 s. 5] (3976-47)

325.50 CONTRACTS OR AGREEMENTS IN VIOLATION VOID. Any contract or agreement in violation of the provisions of sections 325.15 to 325.23 shall be absolutely void and shall not be enforceable either in law or equity.

[1937 c. 412 s. 10] (3976-80)

325.51 DAMAGES RECOVERABLE. In addition to the criminal and civil penalties provided in sections 325.15 to 325.23, any person who shall be injured in his business or property by any other person, corporation, association, or partnership, by reason of anything forbidden or declared to be unlawful by sections 325.15 to 325.23, may sue therefor in any court having jurisdiction thereof in the county where the defendant resides or is found, or where any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and recover two-fold the damages by him sustained and the costs of the suit. Whenever it shall appear to the court before which any proceedings under sections 325.15 to 325.23 may be pending, that the ends of justice require that other parties be brought before the court, the court may cause them to be made parties defendant and summoned, whether they reside in the county where such action is pending or not.

[1937 c. 412 s. 12] (3976-82)

325.52 SALES PRIMA FACIE EVIDENCE OF VIOLATION; DENIAL OF LEGAL OR EQUITABLE RELIEF. Any sale made by the retail vendor at less than eight percent above the manufacturer's published list price, less his published trade discounts, where the manufacturer publishes a list price; or, in the absence of such list price, at less than eight percent above the actual current delivered invoice or replacement cost, without deducting customary cash discounts, plus, in either case, the amount of any excise or sales tax imposed on such merchandise subsequent to the purchase thereof and prior to the resale thereof, for the purpose or with the effect of injuring a competitor or destroying competition, shall be prima facie evidence of the violation of sections 325.02 to 325.07.

No prosecution shall be had nor any action at law for damages or injunctive relief shall lie where the vendor sells at a price not less than 15 percent above the manufacturer's published list price, less his published trade discounts, where the manufacturer publishes a list price; or, in the absence of such a list price, at not less than 15 percent above the current delivered invoice or replacement cost, without deducting customary cash discounts, plus, in either case, the amount of any excise or sales tax imposed on such merchandise subsequent to the purchase thereof and prior to the resale thereof.

Any sale made by a wholesale vendor, or a sub-jobber to a retailer at less than two percent above the manufacturer's published list price, less his published trade discounts, where the manufacturer publishes a list price; or, in the absence of such a list price, at less than two percent above the actual current delivered invoice or replacement cost, without deducting customary cash discounts, plus, in either case, the amount of any excise or sales tax imposed on such merchandise subse-

quent to the purchase thereof and prior to the resale thereof, for the purpose or with the effect of injuring a competitor or destroying competition, shall be prima facie evidence of the violation of sections 325.02 to 325.07.

Any sale made by a wholesaler to another wholesaler, sub-jobber or vending machines operator at less than the manufacturer's published list price less his published trade discounts, where the manufacturer publishes a list price; or, in the absence of such a list price, at less than the actual current delivered invoice or replacement cost, without deducting customary cash discounts, plus, in either case, the amount of any excise or sales tax imposed on such merchandise subsequent to the purchase thereof and prior to the resale thereof, for the purpose or with the effect of injuring a competitor or destroying competition, shall be prima facie evidence of the violation of sections 325.02 to 325.07.

[1937 c 116 pt 2 s 3; 1937 c 456 s 1; 1937 c 403 s 2; 1941 c 126 s 2; 1955 c 339 s 5; 1957 c 822 s 4] (3976-42)

325.53 DEFINITIONS. Subdivision 1. For the purposes of sections 325.53 to 325.62, unless a different meaning is indicated by the context, the words, terms, and phrases defined in this section shall have the meanings given them.

Subd. 2. "Gambling devices" means slot machines, roulette wheels, punch-boards, number jars and pin ball machines which return coins or slugs, chips, or tokens of any kind, which are redeemable in merchandise or cash.

Subd. 3. "Person" means an individual, a copartnership, an association, a corporation, or any other entity or organization.

Subd. 4. "Municipality" means any county, city, village, borough or town.

Subd. 5. "License" includes permits of every kind, nature and description issued pursuant to any statute or ordinance for the carrying on of any business, trade, vocation, commercial enterprise or undertaking.

Subd. 6. "Licensee" means any person to whom a license of any kind is issued, but does not include a common carrier transporting, or a public warehouseman storing, any gambling device for hire, or a manufacturer or distributor of such devices keeping the same only for the purpose of sale or distribution to others or repairing of same.

Subd. 7. "Licensed business" means any business, trade, vocation, commercial enterprise, or undertaking for which a license is issued.

Subd. 8. "Licensed premises" means the place or building, or the room in a building, designated in the license as the place where the licensed business is to be carried on, and all land adjacent thereto and used in connection with and in the operation of a licensed business, and all adjacent or contiguous rooms or buildings operated or used in connection with the buildings where the licensed business is carried on. If no place is described in any license, then "licensed premises" means the building or place where the licensed business is carried on under such license.

Subd. 9. "Issuing authority" and "authority issuing the license" mean and include the officer, board, bureau, department, commission, or agency of the state, or of any of its municipalities, by whom any license is issued and include the councils and governing bodies of all municipalities.

[1947 c 586 s 1]

325.54 GAMBLING DEVICE; POSSESSION OF. Subdivision 1. **Intentional possession; wilful keeping.** The intentional possession or wilful keeping of a gambling device upon any licensed premises is cause for the revocation of any license under which the licensed business is carried on upon the premises where the gambling device is found.

Subd. 2. **Revocation of licenses.** All licenses under which any licensed business is permitted to be carried on upon the licensed premises shall be revoked if the intentional possession or wilful keeping of any such gambling devices upon the licensed premises is established, notwithstanding that it may not be made to appear that such devices have actually been used or operated for the purpose of gambling.

[1947 c 586 s 2]

325.55 ISSUING AUTHORITY TO REVOKE. The proceedings for revocation shall be had before the issuing authority, which shall have power to revoke the license or licenses involved, as hereinafter provided.

[1947 c 586 s 3]

325.56 PEACE OFFICERS TO OBSERVE AND INSPECT PREMISES. Every sheriff, deputy sheriff, constable, marshal, policeman, police officer, and peace officer

shall observe and inspect the premises where occupations are carried on under license and ascertain whether gambling devices are present thereon and immediately report the finding thereof to the authority or authorities issuing the license or licenses applicable to the premises in question.

[1947 c 586 s 4]

325.57 PROCEEDINGS BEFORE ISSUING AUTHORITY; ORDER TO SHOW CAUSE. Upon the receipt of such information from any of the peace officers referred to in section 325.56, if any issuing authority is of the opinion that cause exists for the revocation of any such license, then that authority shall issue an order to show cause directed to the licensee of the premises, stating the ground upon which the proceeding is based and requiring him to appear and show cause at a time and place, within the county in which the licensed premises are located, not less than ten days after the date of the order, why his license should not be revoked. That order to show cause shall be served upon the licensee in the manner prescribed by law for the service of summons in a civil action, or by registered mail, not less than eight days before the date fixed for the hearing thereof. A copy of the order shall forthwith be mailed to the owner of the premises, as shown by the records in the office of the register of deeds, at his last known post-office address. A copy of the order shall at the same time be mailed to any other issuing authority, of which the authority issuing the order to show cause has knowledge, by which other license to that licensee may have been issued, and any such other authority may participate in the revocation proceedings after notifying the licensee and the officer or authority holding the hearing of its intention so to do on or before the date of hearing, and after the hearing take such action as it could have taken had it instituted the revocation proceedings in the first instance.

[1947 c 586 s 5]

325.58 REVOCATION OF LICENSE. Subdivision 1. **Revocation; stay; appeal.** If, upon the hearing of the order to show cause, it appears that the licensee intentionally possessed or wilfully kept upon his licensed premises any gambling device, then the license or licenses under which the licensed business is operated on the licensed premises, shall be revoked. The order of revocation shall not be enforced during the period allowed by section 325.62 for taking an appeal.

Subd. 2. **Limitation as to issuance of new license on premises.** No new license or licenses for the same business upon the same premises shall be issued for the period of one year thereafter, except as hereinafter provided.

[1947 c 586 s 6]

325.59 DUTIES OF COUNTY ATTORNEY. The county attorney of the county in which the hearing is held shall attend the hearing, interrogate the witnesses, and advise the issuing authority. He shall also appear for the issuing authority on any appeal taken pursuant to the provisions of section 325.62.

[1947 c 586 s 7]

325.60 WITNESSES. The issuing authority may issue subpoenas and compel the attendance of witnesses at any hearing. Witnesses duly subpoenaed and attending any such hearing shall be paid fees and mileage by the issuing authority equal to the fees and mileage paid witnesses in the district court.

[1947 c 586 s 8]

325.61 PROPERTY OWNERS LIABILITY. When a license is revoked under the provisions of sections 325.53 to 325.62, the owner of the premises upon which any licensed business has been operated shall not be penalized by reason thereof unless it is established that he had knowledge of the existence of the gambling devices resulting in license revocation.

[1947 c 586 s 9]

325.62 APPEAL TO DISTRICT COURT; STAY; CONTINUANCE UNDER BOND; HEARING UPON ONE YEAR LIMITATION ON PREMISES. Any licensee, or any owner of licensed premises, aggrieved by an order of an issuing authority revoking any license may appeal from that order to the district court of the county in which the licensee resides by serving a notice of his appeal upon the issuing authority or the clerk thereof. The notice of appeal shall state that the person appealing takes an appeal to that district court from the order revoking the license or licenses, describing them and identifying the order appealed from. This notice shall be served within 15 days from the date of service of the order appealed from, and the same, with proof of service thereof, shall be filed with the

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clerk of the district court of the proper county. The appeal shall stand for trial at the next term of the district court following the filing of the notice of appeal, without the service of any notice of trial, and shall be tried in the district court de novo. The trial shall be by jury if the appellant shall so demand. The licensee may continue to operate the licensed business or businesses until the final disposition of such appeal. If the district court upon the appeal shall determine that any license involved in the appeal should be revoked, it may, nevertheless, in its discretion permit the continuance of the licensed business under a bond in the amount and in the form and containing the conditions prescribed by the court. The district court on the appeal, or in a separate proceeding, may permit the issuance of a new license to a different licensee before the expiration of the period of one year specified in section 325.58, subdivision 2, upon such terms and conditions imposed by the court as will insure that no gambling device shall thereafter be maintained upon the licensed premises.

[1947 c 586 s 10]

325.63 AGRICULTURAL IMPLEMENT DEALERSHIPS; RETURN OF STOCK.

If a franchised agricultural machinery or implement dealership is discontinued for economic reasons, the firm, company, or person issuing the franchise to the dealer shall purchase all listed parts in the dealer's stock purchased originally from firm, company, or person issuing franchise at a price agreeable to the franchised dealer and such firm, company, or person.

[1959 c 398 s 1]

325.64 MINNESOTA UNFAIR CIGARETTE SALES ACT; FINDINGS AND POLICY. The legislature finds that unfair, dishonest and fraudulent business practices exist in transactions involving the sale of, or offer to sell, cigarettes in the wholesale and retail trades in this state and are demoralizing and disorganizing the said trades.

Offering for sale, or sale of cigarettes below cost in the wholesale and retail trade is declared by the legislature to have the intent or effect of injuring a competitor, destroying or lessening competition, and is deemed an unfair and deceptive business practice and an unfair method of competition.

Such practices affect collection of taxes and license fees imposed on distributors, wholesalers, retailers, and persons engaged in the sale of cigarettes.

It is hereby declared to be the policy of the state of Minnesota and the purpose of sections 325.64 to 325.76 to protect the public by prohibiting such sales.

[Ex1961 c 35 s 1]

325.65 SHORT TITLE. Sections 325.64 to 325.76 shall be known as the "Minnesota Unfair Cigarette Sales Act."

[Ex1961 c 35 s 2]

325.66 DEFINITIONS. Subdivision 1. For the purposes of sections 325.64 to 325.76, the words, terms and phrases defined in this section have the meanings ascribed to them except where the context clearly indicates a different meaning.

Subd. 2. "Cigarettes" means and includes any roll for smoking, made wholly or in part of tobacco, irrespective of size and shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

Subd. 3. "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club agency, syndicate, or anyone engaged in the sale of cigarettes.

Subd. 4. "Wholesaler" means and includes any person who acquires cigarettes for the purpose of sale to retailers or to other persons for resale, and who maintains an established place of business including but not limited to their residences or motor vehicles where substantially all of the business is the sale of cigarettes and related merchandise at wholesale to persons licensed under sections 325.64 to 325.76, and where at all times a substantial stock of cigarettes and related merchandise is available to retailers for resale, or any cigarette manufacturer or manufacturer's representative who sells to retailers or to other persons for resale.

Subd. 5. "Retailer" means any person who is engaged in this state in the business of selling, or offering to sell, cigarettes at retail.

Subd. 6. "Sale" and "sell" mean and include any transfer for a consideration, exchange, barter, gift, offer for sale, and distribution in any manner or by any means whatsoever.

Subd. 7. "Sell at wholesale," "sale at wholesale," and "wholesale sales" mean

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and include any sale or offer for sale made in the course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.

Subd. 8. "Sell at retail," "sale at retail," and "retail sales" mean and include any sale or offer for sale for consumption or use made in the ordinary course of trade of the seller's business.

Subd. 9. "Basic cost of cigarettes" means whichever of the two following amounts is lower, namely, (1) the true invoice cost of cigarettes to the wholesaler or retailer, as the case may be, or (2) the lowest replacement cost of cigarettes to the wholesaler or retailer in the quantity last purchased, less in either case, all trade discounts, promotional discounts and any other discounts for cash or merchandise, plus the full face value of any stamps which may be required by any cigarette tax act of this state, unless included by the manufacturer in his list price.

Subd. 10. (1) "Cost to wholesaler" means the basic cost of the cigarettes plus the cost of doing business by the wholesaler, as defined in sections 325.64 to 325.76. (2) The cost of doing business by the wholesaler is four percentum of the basic cost of said cigarettes, plus cartage to the retail outlet, if furnished or paid for by the wholesaler. Such cartage cost is one-half of one percent of the basic cost of the cigarettes in the absence of proof of a lesser or higher cost.

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Subd. 11. (1) "Cost to the retailer" means the basic cost of the cigarettes involved to the retailer plus the cost of doing business by the retailer as defined in sections 325.64 to 325.76.

(2) The cost of doing business by the said retailer is eight percentum of the basic cost of cigarettes.

(3) If any retailer in connection with his purchase of any cigarettes shall receive the discounts ordinarily allowed upon purchases by a retailer and in whole or in part discounts ordinarily allowed upon purchases by a wholesaler, the cost of doing business by the retailer with respect to the said cigarettes shall be the sum of the cost of doing business by the retailer and, to the extent that he shall have received the full discounts allowed to a wholesaler, the cost of doing business by a wholesaler as defined in subdivision 10(2).

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[Ex1961 c 35 s 3]

325.67 SALES AT LESS THAN COST; PENALTY. Subdivision 1. It shall be unlawful for any wholesaler or retailer to offer to sell, or sell, at wholesale or retail, cigarettes at less than cost to such wholesaler or retailer, as the case may be, as defined in sections 325.64 to 325.76. Any wholesaler or retailer who violates the provisions of this section shall be guilty of a misdemeanor.

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Subd. 2. Evidence of advertisement, offering to sell or sale of cigarettes by any wholesaler or retailer at less than cost to him as defined by sections 325.64 to 325.76 shall be prima facie and presumptive evidence of a violation of sections 325.64 to 325.76 in civil cases.

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[Ex1961 c 35 s 4]

325.68 COMBINATION SALES. In all offers for sale or sales involving cigarettes and any other item at a combined price and in all offers for sales or sales, involving the giving of any gift or concession of any kind whatsoever, and which are not given by the wholesaler or retailer with all sales made by him in the ordinary course of his trade or business, the wholesaler's or retailer's combined selling price shall not be below the cost to the wholesaler or the cost to the retailer, respectively, of the total of all articles, products, commodities, gifts, and concessions included in such transaction, except that if any such articles, products, commodities, gifts, or concessions, shall not be cigarettes, the basic cost thereof shall be determined in like manner as provided in subdivision 9 of section 325.66.

[Ex1961 c 35 s 5]

325.69 SALES BY A WHOLESALER TO A WHOLESALER. When one wholesaler sells cigarettes to any other wholesaler, the former shall not be required to include in his selling price to the latter, the cost to the wholesaler, as defined by section 325.66, but the latter wholesaler, upon resale to a retailer, shall be subject to the provisions of the said section.

[Ex1961 c 35 s 6]

325.70 SALES EXCEPTIONS. The provisions of sections 325.64 to 325.76 shall not apply to a sale at wholesale or a sale at retail made (a) in an isolated transaction; (b) where cigarettes are offered for sale, or sold in a bona fide clearance sale for the purpose of discontinuing trade in such cigarettes and said offer to

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sell, or sale shall state the reason thereof and the quantity of such cigarettes offered for sale, or to be sold; (c) where cigarettes are offered for sale, or sold as imperfect or damaged, and said offer to sell, or sale shall state the reason therefor and the quantity of such cigarettes offered for sale, or to be sold.

[*Ex1961 c 35 s 7*]

325.71 TRANSACTIONS PERMITTED TO MEET LAWFUL COMPETITION.

Subdivision 1. Any wholesaler may advertise, offer to sell or sell cigarettes at a price made in good faith to meet the price of a competitor who is selling the same article at the cost to the competing wholesaler as defined by sections 325.64 to 325.76. Any retailer may offer to sell or sell cigarettes at a price made in good faith to meet the price of a competitor who is selling at the cost to the said competing retailer as defined in sections 325.64 to 325.76. The price of cigarettes offered for sale, or sold under the exceptions specified in section 325.70 shall not be considered the price of a competitor and shall not be used as a basis for establishing prices below cost, nor shall the price established at a bankrupt or forced sale be considered the price of a competitor within the purview of this section.

Subd. 2. In the absence of proof of the actual cost to a competing wholesaler or to a competing retailer, as the case may be, such cost shall be the lowest cost to wholesalers or the lowest cost to retailers, as the case may be, within the same trading area as determined by a cost survey made pursuant to section 325.72, subdivision 2.

[*Ex1961 c 35 s 8*]

325.72 ADMISSIBLE EVIDENCE. Subdivision 1. **Cost to wholesalers and retailers.** In determining cost to the wholesaler and cost to the retailer the court shall receive and consider as bearing on the bona fides of such cost, evidence that any person complained against under any of the provisions of 325.64 to 325.76 purchased the cigarettes involved in the complaint before the court, at a fictitious price, or upon terms, or in such a manner, or under such invoices, as to conceal the true cost, discounts, or terms of purchase, and shall also receive and consider as bearing on the bona fides of such cost, evidence of the normal, customary and prevailing terms and discounts in connection with other sales of a similar nature in the trade area or state.

Subd. 2. **Cost survey.** Where a cost survey pursuant to recognized statistical and cost accounting practices has been made for the trading area in which a violation of sections 325.64 to 325.76 is committed or charged, to determine and establish the lowest cost to wholesalers or the lowest cost to retailers within the area, the cost survey shall be deemed competent evidence in any action or proceeding under sections 325.64 to 325.76 to establish actual cost to the wholesaler or actual cost to the retailer complained against. In such surveys to determine cost to the wholesaler or retailer there shall be included in the cost of doing business without limitation, labor, rent, depreciation, sales costs, compensation, maintenance of equipment, cartage, licenses, taxes, insurance, or other expenses.

[*Ex1961 c 35 s 9*]

325.73 SALES OUTSIDE ORDINARY CHANNELS OF BUSINESS; EFFECT.

In establishing the basic cost of cigarettes to a wholesaler or a retailer, it shall not be permissible to use the invoice cost or the actual cost of any cigarettes purchased at a forced, bankrupt, or close-out sale, or other sale outside of the ordinary channels of trade, including purchases from wholesale distributors who do not have their principal place of business within the state of Minnesota.

[*Ex1961 c 35 s 10*]

325.74 ACTION TO ENJOIN. The state department of business development, or any person or persons injured by any violation, or who would suffer injury from any threatened violation of sections 325.64 to 325.76, may maintain an action to enjoin such actual or threatened violence and proof of actual damages need not be alleged or proved in cases of threatened violation.

[*Ex1961 c 35 s 11*]

325.75 STATE DEPARTMENT OF BUSINESS DEVELOPMENT; POWERS AND DUTIES. Subdivision 1. The state department of business development may adopt rules and regulations for the enforcement of 325.64 to 325.76 and it is empowered to and may from time to time undertake and make or cause to be made such cost surveys for the state or such trading area or areas as it shall deem

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necessary and it shall be permissible to use such cost survey as provided in sections 325.71, subdivision 2, and 325.72, subdivision 2.

Subd. 2. Said department may, upon notice and after hearing, suspend or revoke any permit issued under the cigarette tax provisions and the rules and regulations of the department promulgated thereunder, for failure of the permit holder to comply with any provisions of this unfair cigarette sales act or any rule or regulation adopted thereunder. The suspension or revocation of a permit shall be for a period of not less than six months from the date of suspension or revocation and no permit shall be issued for the location designated in the suspended or revoked permit, during the period of suspension or revocation.

Subd. 3. Any person aggrieved by the decision order or finding of the department relative to suspending or revoking any such permit may appeal therefrom to the district court in the same manner and subject to the same procedure as is provided by law.

[*Ex1961 c 35 s 12*]

325.76 PARTIAL UNCONSTITUTIONALITY. The provisions of sections 325.64 to 325.76 shall be deemed to be severable and if for any reason any provisions shall be determined to be unconstitutional or invalid, such determination shall not be held to affect any other provisions hereof. And no such determination shall be deemed to invalidate or render ineffectual any of the other provisions of sections 325.64 to 325.76.

[*Ex1961 c 35 s 13*]